

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN R. MONIZ,

Defendant.

8:02CR325

ORDER

Defendant John R. Moniz (Moniz) appeared before the court on January 26, 2006, on an Petition for Warrant or Summons for Offender Under Supervision (Report) (Filing No. 27). Moniz was represented by M. Scott Vander Schaaf and the United States was represented by Assistant U.S. Attorney Douglas R. Semisch. Moniz requested a preliminary examination and the hearing was set for February 1, 2006. On January 31, 2006, Moniz filed a waiver of the preliminary hearing (Filing No. 31). I find that the Report alleges probable cause and that Moniz should be held to answer for a final dispositional hearing before Chief Judge Joseph F. Bataillon.

The government moved for detention. Through counsel, Moniz declined to present any evidence on the issue of detention and otherwise waived a detention hearing. Since it is Moniz's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, the court finds Moniz has failed to carry his burden and that Moniz should be detained pending a dispositional hearing before Chief Judge Bataillon.

IT IS ORDERED:

1. A final dispositional hearing will be held before Chief Judge Joseph F. Bataillon in Courtroom No. 3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at such time as directed by Chief Judge Bataillon**. Defendant must be present in person.

2 Defendant John R. Moniz is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;

3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 2nd day of February, 2006.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge